

This letter concerns the providing of Internet music services. See 86 Ill. Adm. Code Part 495.
(This is a GIL.)

May 25, 2004

Dear Xxxxx:

This letter is in response to your letter dated November 24, 2003, in which you request information. We apologize for the delay in responding to your inquiry. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I'm starting up a corporation called XYZ. This corporation will have a subsidiary called AAA. AAA will be an Internet music radio station web site. Basically, we will be selling time on our Internet radio station web site. For example, a musician would pay \$20 to have their song played on AAA's music radio station web site daily for one month.

Since this is a service we're providing I do not believe that it would incur in Illinois sales tax. Please advise me if I'm correct? In addition, I just wanted to verify that it would not meet any other type of miscellaneous sales tax and/or telecommunication sales tax that I should be aware of while operating our business out of the state of Illinois.

DEPARTMENT'S RESPONSE:

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. See the enclosed copy of 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a

retailer. See the enclosed copy of 86 Ill. Adm. Code 150.101. These taxes comprise what is commonly known as "sales" tax in Illinois.

If you do not transfer any tangible personal property to the customers of your business, you would not incur any sales tax liability. You do incur a use tax liability on any items that you purchase for use in this State.

The Illinois Telecommunications Excise Tax Act imposes a tax on the act or privilege of originating or receiving intrastate or interstate telecommunications by persons in Illinois at the rate of 7% of the gross charges for such telecommunications purchased at retail from retailers by such persons. See 86 Ill. Adm. Code part 495. Generally, persons that provide services such as you describe, and who do not, as part of that service, charge customers for the line or other transmission charges which are used to obtain access to the Internet, are not considered to be telecommunications retailers.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.